

THE HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VANESSA SIMMONDS,

Plaintiff,

and

GEEKNET, INC. (f/k/a VA LINUX
SYSTEMS, INC.), a Delaware corporation,

Nominal Plaintiff,

v.

CREDIT SUISSE SECURITIES (USA) LLC,
a Delaware limited liability company,

Defendant.

Case No. 2:12-cv-01937 JLR

**DEFENDANT'S NOTICE OF
SUPPLEMENTAL AUTHORITY**

Pursuant to Local Civil Rule 7(n), Defendant Credit Suisse Securities (USA) LLC ("Credit Suisse") respectfully submits the Second Circuit's decision issued today in *Mercer v. Gupta*, No. 12-3393 (Apr. 5, 2013) (per curiam), as supplemental authority in support of Credit Suisse's pending motion to dismiss. The Second Circuit affirmed the district court's decision in *Mercer v. Gupta*, 880 F. Supp. 2d 486 (S.D.N.Y. 2012), which dismissed a Section 16(b) case brought by Plaintiff's counsel here, and which Credit Suisse cited in its briefs. *See* Mot. to

DEFENDANT'S NOTICE OF SUPPLEMENTAL
AUTHORITY - 1
Case No. 2:12-cv-01937 JLR

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123414.0002/5642690.1

Dismiss [Dkt.31] at 2 n.2, 35, 36, 37; Reply in Supp. of Mot. to Dismiss [Dkt. 36] at 12. A copy of the decision is attached hereto as Exhibit A.

DATED: April 5, 2013

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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington and the United States that on the 5th day of April, 2013, the document attached hereto was presented to the Clerk of the Court for filing and uploading to the CM/ECF system. In accordance with their ECF registration agreement and the Court's rules, the Clerk of the Court will send e-mail notification of such filing to the following persons:

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Executed on the 5th day of April, 2013, at Seattle, Washington.

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